

**IC 8-5**

**ARTICLE 5. COMMUTER RAILWAYS**

**IC 8-5-1**

Chapter 1. Interurban Railroads

**IC 8-5-1-1**

**Powers and duties; enumeration**

Sec. 1. Any street railroad company organized before or after March 11, 1901, under Indiana statutes and desiring to construct or acquire, or having before March 11, 1901, constructed or acquired, any street railroad, interurban street railroad, or suburban street railroad, shall, in addition to the rights, privileges, and powers given and granted by statute before March 11, 1901, to street railroad companies, possess the general powers and be subject to the liabilities and restrictions expressed in the special powers following:

First, to cause such examination and surveys for the proposed railroad to be made as may be necessary to the selection of the most advantageous route for the railroad, and, for such purposes, by their officers, agents, and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

Second, to receive, hold, and take such voluntary grants and donations of real estate and other personal property as shall be made to it to aid in the construction, maintenance, and accommodation of such railroad; but the real estate thus received by voluntary grants shall be held and used for the purpose of such grants only.

Third, to purchase, or by voluntary grants and donations, or by the special proceedings provided in this chapter, receive, acquire, and take, and by its officers, engineers, surveyors, and agents enter upon, take possession of, hold, and use, all such lands and real estate and other property as may be necessary for the construction, maintenance, and operation of its railroads, railroad stations, depots, powerhouses, shops, carbarns, offices, lines for transmission of electricity for heat, light, and power for such companies or the public, which transmission lines may be on the line of said railroad or elsewhere, as such company may desire, and other accommodations necessary to accomplish the objects for which the corporation is created, but not until the compensation to be made therefor, as agreed upon by the parties or ascertained as provided in this chapter, shall have been paid to the owner or owners thereof or deposited as in this chapter directed, unless the consent of such owner be given to enter into possession.

Fourth, to lay out its road or any part thereof, not exceeding four (4) rods wide, and to construct, maintain, and operate the same, and for the purpose of cuttings, embankments, and procuring stone and gravel, it may take as much more lands,

which lands if taken for stone or gravel may be adjacent to the line of said road or elsewhere, in the manner provided in this chapter, as its directors may deem necessary for the proper construction and security of the road.

Fifth, to construct its road across any stream of water, watercourse, road, highway, railroad, or canal, so as not to interfere with the free use of the same, which the route of its road shall intersect, in such manner as to afford security for life and property, and, with the consent of the authorities of the proper county, town, or city, on any street, road, or highway, but the corporation shall restore the stream or watercourse, street, road, or highway to its former state, or in a sufficient manner not to unnecessarily impair its usefulness or injure its franchises. And in case such street railroad company shall cross the tracks of any other street railroad company or any railroad company, if the two (2) corporations can not agree upon the amount of compensation to be made therefor, the same shall be ascertained and determined by commissioners to be appointed as is provided in this chapter in respect to the taking of lands; provided, however, that such rights as street railroad companies may have under statutes existing on March 11, 1901, without agreement with the company to be crossed, and without resorting to the special proceedings prescribed in this chapter, to construct, maintain, and operate their street railroads, interurban street railroads, or suburban street railroads across any railroad or street railroad on any street, road, or highway on which such street railroad companies may be legally authorized to operate, shall not be diminished or impaired by anything in this chapter contained.

Sixth, to maintain and operate, and to that end to construct, purchase, lease, or otherwise acquire, and own or control, street railroad, interurban street railroad, or suburban street railroad lines and systems, constructed or in process of construction, or any part or parts thereof, and property appertaining thereto or to be used in connection therewith, in, through, between and connecting the towns and cities, or any of them, named in its articles of association, or those of its constituent companies, or which lines and systems, or part or parts thereof, connect, or will connect, with its lines and system of street railroad interurban street railroad or suburban street railroad, and to take, transport, carry, and convey passengers and property on its said railroad lines and systems by such force as it is permitted to use for such purpose, and to receive tolls and compensation therefor.

Seventh, to erect and maintain all necessary and convenient buildings, stations, depots, fixtures, and machinery for the accommodation and use of its business, and to obtain and hold the lands necessary therefor.

Eighth, to regulate the time and manner in which passengers and property shall be transported, and the tolls and

compensation to be paid therefor; provided, however, that nothing contained in this chapter shall take away from the towns and cities the power to regulate and fix the tolls and compensation for such transportation within such cities and towns, as a condition to the grant of the right to operate therein; and nothing in this chapter shall be construed to give any street railroad company the right to construct or operate a railroad in any city or town without first getting the consent of the proper authorities of the city or town to such construction and operation.

Ninth, if, at any time after the location or construction, in whole or in part, of such street railroad, interurban street railroad, or suburban street railroad, it shall appear to a majority of the directors of such company that the line of such railroad is unnecessarily dangerous, inconvenient, or expensive to operate by reason of grades, curves, or other physical conditions affecting the construction, maintenance, or operation of such road, or that, for any other reason, the location of such street railroad, interurban street railroad, or suburban street railroad should be changed, it may make alterations in its line and route, and for that purpose may enter upon, take, and hold the real estate necessary therefor in the manner and by the special proceedings prescribed in this chapter.

Tenth, to make such changes in the grade or the line of highways as it may be directed or permitted to make by the proper county commissioners, with the view to the safety or the convenience of the public, or the better alignment or construction of such railroad, and to take by the special proceedings described in this chapter such lands as may be necessary for such changes.

*(Formerly: Acts 1901, c.207, s.1; Acts 1903, c.36, s.1.) As amended by P.L.62-1984, SEC.91.*

### **IC 8-5-1-2**

#### **Crossings; construction**

Sec. 2. Where it becomes necessary for the track or trolley-wires of one (1) street railroad company to cross the track or trolley-wires of another street railroad company or the track of any railroad company the company owning the road last constructed at such crossing shall, unless otherwise agreed to between such companies, be at the exclusive expense of constructing such crossing in a manner to be convenient and safe for both companies.

*(Formerly: Acts 1901, c.207, s.2.)*

### **IC 8-5-1-3**

#### **Crossings; maintenance**

Sec. 3. Whenever such railroad crossing is constructed in the manner provided for in the preceding section, it shall be the duty of each company respectively to maintain and keep in repair its own track, so as at all times to provide a ready, safe and convenient

crossing for all locomotives, trains or cars passing on either road at such point.

*(Formerly: Acts 1901, c.207, s.3.)*